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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/598,551

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EXAMINER

MCLEOD, MARSHALL M

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/598,551	Applicant(s) FOSTER ET AL.	
	Examiner MARSHALL MCLEOD	Art Unit 2457	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6,7,9,14,15,17 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 6-7, 9, 14-15, 17 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2457

DETAILED ACTION

1. This Office action has been issued in response to a Request for Continued Examination filed 24 March 2010. Claims 1, 6-7, 9, 14-15, 17 and 22 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1, 6-7, 9, 14-15, 17 and 22 are a rejected under 35 U.S.C. 103(a) as being unpatentable over del Val et al. (Patent No US 6,763,392 B1), hereinafter del Val, in view of Deshpande (Patent No US 2005/0071881) and further in view of Hefeeda et al. (Non Patent Pub. PROMISE: PeertoPeer Media Streaming Using CollectCast), hereinafter Hefeeda.**

4. With respect to claims 1, 9 and 17 del Val discloses a method for retrieving digital multimedia content from a network node (Figure 1; Column 2, lines 41-45), comprising: generating a Real Time Streaming Protocol (RTSP) SET_PARAMETER message to said network node by a client application executing on a digital multimedia device (Column 7, lines 41-50); and transferring digital multimedia content to said digital multimedia device by said network node from a second content source (Column 7, lines 41-50).

Art Unit: 2457

del Val does not disclose a message containing at least one of a playlist identifier, a media clip index and a clip offset as well as an indication of an activation time corresponding to an END OF CLIP value; playlist identifier and said media clip index, wherein said message is generated in response to the client application generating a SWITCH message while said network node is streaming current digital multimedia content to said digital multimedia device from a first content source different than the second content source wherein the first content source comprises a first media clip from which said current media multimedia content is accessed for streaming and the second content source comprises a second media clip from which said different digital multimedia content of the second content source is accessed for streaming, wherein said network node continues to stream from the first media clip of until a boundary of the first media clip is reached and wherein said transferring commencing in response to the boundary of the second media clip being reached during said streaming thereof, further comprising receiving a Normal Play Time (NPT) value determined based on the parameters received in the SET PARAMETER message, wherein the NPT value indicates a time at which streaming of media content from the second media clip will commence, and further comprising causing the time to be displayed after receiving the NPT.

However, Deshpande discloses a message containing at least one of a playlist identifier, a media clip index and a clip offset ([0021], lines 2-5; which discloses “generating display instructions” which the examiner interpreted to mean “message” that contains information about and for the playlist; AND [0004], lines 1-5) as well as an indication of an activation time corresponding to an END OF CLIP value ([0075], lines 1-10); wherein said message is generated in response to

Art Unit: 2457

the client application generating a SWITCH message while said network node is streaming current digital multimedia content to said digital multimedia device from a first content source different than the second content source (Page 8, [0107]; which discloses . . . client sends an RTSP PLAY request to the server 104 with the $npt=St2-Et2$ for the video segment S2 at npt time $Et1-D1$ with respect to the video segment S1 timeline . . . so that the video playback for S2 can start at $Et1$; which the examiner interprets as SWITCH streams once stream one is finished playing), wherein the first content source comprises a first media clip from which said current media multimedia content is accessed for streaming and the second content source comprises a second media clip from which said different digital multimedia content of the second content source is accessed for streaming (Page 8, [0107]; which discloses . . . client sends an RTSP PLAY request to the server 104 with the $npt=St2-Et2$ for the video segment S2 at npt time $Et1-D1$ with respect to the video segment S1 timeline; S1 is a first media clip and S2 is a second different media clip being accessed), wherein said network node continues to stream from the first media clip of until a boundary of the first media clip is reached and wherein said transferring commencing in response to the boundary of the second media clip being reached during said streaming thereof (Page 8, [0106], lines 1-5), further comprising receiving a Normal Play Time (NPT) value determined based on the parameters received in the SET PARAMETER message, wherein the NPT value indicates a time at which streaming of media content from the second media clip will commence, and further comprising causing the time to be displayed after receiving the NPT(Page 7, [0105] continued through to Page 8, [0106]).

Art Unit: 2457

It would have been obvious to a person having ordinary skill in the art at the time of the invention to combine the teachings of del Val with the teachings of Deshpande by adding the quality of service monitors (i.e. software that monitors quality) to the system in order to improve the quality of service and user experience provided to user's, so that a user creating a customizable playlist will not notice any reduction in performance or quality of the media.

The combined teachings of del Val and Deshpande does not disclose a first content source different than and physically separate from the second content source wherein the first content source and the second content source are not located within the same device; a first playlist; a second playlist.

However, Hefeeda discloses a first content source different than and physically separate from the second content source wherein the first content source and the second content source are not located within the same device (Paragraph 2; PROMISE: AN OVERVIEW; Pages 2-3); a first playlist (Paragraph 2; PROMISE: AN OVERVIEW; Pages 2-3; the examiner interprets this as each individual peer has its own playlist); a second playlist (Paragraph 2; PROMISE: AN OVERVIEW; Pages 2-3; the examiner interprets this as each individual peer has its own playlist).

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the combined teachings of del Val and Deshpande with the teachings of Hefeeda by allowing the user to stream from multiple peers (i.e. servers) through the use of peer

Art Unit: 2457

to peer networks. In order to avoid having an interruption in the streaming of the user's media due to a failure on that single server or due to that server having too much of its bandwidth/resources being used. Also providing a user with multiple servers or peers from which to stream media can provide the user with a faster download of the media.

5. With respect to claims 6, 14 and 22, Desphande discloses wherein said digital multimedia device accesses said network node over at least one of a wireline network, a wireless network, and a cable network (Page 3, [0046]).

6. With respect to claims 7 and 14, del Val discloses wherein said digital multimedia device comprises at least one of: digital music players, digital video players, computers, and handheld communication devices enabled to accept streaming media (Column 2, lines 59-67). Desphande also discloses wherein said digital multimedia device comprises at least one of: digital music players, digital video players, computers, and handheld communication devices enabled to accept streaming media (Page 3, [0045]).

Response to Arguments

7. Applicant's arguments filed 24 March 2010 have been fully considered but they are not persuasive.

Art Unit: 2457

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARSHALL MCLEOD whose telephone number is (571)270-3808. The examiner can normally be reached on Monday - Thursday 6:30 a.m-4:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Marshall McLeod/
Examiner, Art Unit 2457
6/4/2010

/ARIO ETIENNE/

Supervisory Patent Examiner, Art Unit 2457